



COMMISSIONER
TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201618019

FEB 4 2016

Uniform Issue List: 402.00-00

SE:T:EP:RA:T1

Legend

Taxpayer A =

Plan B =

Bank C =

Amount 1 =

Amount 2 =

Dear

This is in response to your request dated February 21, 2015, in which you request a waiver of the 60-day rollover requirement contained in section 402(c)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that he received a distribution equal to Amount 1 from Plan B. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(c)(3) was due to his medical condition during the 60-day period. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A participated in Plan B. In August of 2014, Taxpayer A became ill with an undiagnosed illness. On September 9, 2014, Taxpayer A received a distribution of Amount 1 from Plan B. On September 26, 2014, Amount 2 was deposited into a non-IRA account with Bank C. During the 60-day rollover period, Taxpayer A was unable to work and underwent numerous medical tests and

treatments in an attempt to diagnose his condition. It was not until after the 60-day period had expired, that Taxpayer A began responding to treatment and his condition improved for him to return to work in January 2015. The request for relief is accompanied by Taxpayer A's significant medical history during the 60-day period.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 402(c)(3)(A) of the Code with respect to the distribution of Amount 1.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) of the Code states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An individual retirement account (IRA) constitutes one form of eligible retirement plan.

Section 402(c)(4) of the Code provides that an eligible rollover distribution shall not include any distribution to the extent such distribution is required under section 401(a)(9).

Section 402(c)(3)(B) of the Code provides, in relevant part, that the Secretary may waive the 60-day requirement under section 402(c) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to sections 408(d)(3)(I) and 402(c)(3)(B) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with his assertion that the failure to complete a timely rollover of the distribution of Amount 1 from Plan B was due to his medical condition.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from Plan B. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute no more than Amount 1 into an eligible retirement plan or rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact

at

Please

address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,

 Ada Perry
for Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Notice of Intention to Disclose

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